

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.:	10/668,241	Confirmation No.:	2063
Applicant(s):	Jacob Richter	Group Art Unit:	3734
Filed:	September 24, 2003	Examiner:	Bui, Vy Q.
For:	METHOD AND APPARATUS FOR COVERING A STENT	Customer No.:	27123

PETITION AND RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This paper is submitted in response to the outstanding Office Action dated May 11, 2007 issued in the above-identified application. Applicant respectfully petitions for a one (1) month extension of time to respond. A Petition and Fee for Extension of Time under 37 C.F.R. § 1.136(a) is being filed concurrently herewith.

The Examiner is requiring that the application be restricted to one of the following species:

Species I: Figs. 1-2 (claim 1).

Species II: Figs. 4-7 (claims 2, 4-5, 7).

Applicant provisionally elects Species II (claims 2, 4-5, 7). Applicant believes that the election requirement is improper and therefore makes the above election with traverse. Applicant respectfully submits that for an election requirement to be proper, the MPEP, at section 803, is clear that “there are two criteria ... for restriction between patentably distinct inventions” – namely:

“(A) The invention must be independent or distinct as claimed; and

(B) There would be a serious burden on the examiner ...” (emphasis added).

It is respectfully submitted that (1) all species of restricted claims are properly presented in the same application; (2) undue diverse searching would not be required; and (3) all claims should be examined together. Accordingly, examination of all presented claims would place no additional “serious” burden on the Examiner as examination of the claims of Species I would not require undue diverse searching beyond that which is necessary for examination of the Species II claims.

For the foregoing reasons, it is respectfully submitted that the election requirement should be withdrawn and all claims should be examined together to expedite the patent process in accordance with the U.S. Patent and Trademark Office Business Goals. An action on the merits of all claims is respectfully requested.

If any issues remain, or if the Examiner has any suggestions for expediting allowance of the application, the Examiner is invited to contact the undersigned attorney.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **13-4500**, Order No. 4396-4010US1. A DUPLICATE OF THIS DOCUMENT IS ATTACHED.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for


an extension of time to Deposit Account No. **13-4500**, Order No. 4396-4010US1. A

DUPLICATE OF THIS DOCUMENT IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: July 10, 2007

By: _____


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